

PUBLIC CHAPTER NO. 927

SENATE BILL NO. 3484

By Watson, Jackson, Marrero, Berke, Ford

Substituted for: House Bill No. 3633

By Favors

AN ACT to amend Tennessee Code Annotated, Section 63-9-117; Section 63-6-221 and Section 68-11-211, relative to Level II office-based surgery.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-6-221(a), is amended by adding the following language as a new subdivision:

() "Level II office-based surgery" means level II surgery, as defined by the board of medical examiners in its rules and regulations, that is performed outside of a hospital, an ambulatory surgical treatment center, or other medical facility licensed by the Department of Health.

SECTION 2. Tennessee Code Annotated, Section 63-6-221, is amended by adding the following language as new subsections:

(o) Applicants for initial licensure or reinstatement of a previously issued license shall indicate to the board on the appropriate licensure application if they intend to perform level II office-based surgery procedures as defined by the rules of the Tennessee board of medical examiners and that are integral to a planned treatment regimen and not performed on an urgent or emergent basis.

(p) Licensed physicians who perform level II office-based surgery at the time of licensure renewal shall indicate to the board on the licensure renewal application if the licensee currently performs level II office-based surgery procedures as defined in the rules of the Tennessee board of medical examiners and that are integral to a planned treatment regimen and not performed on an urgent or emergent basis.

(q) In order for health care providers and the board to work together to collect meaningful health care data, so as to minimize the frequency and severity of certain unexpected events and improve the delivery of health care services, each physician who performs any level II office-based surgery that results in any of the following unanticipated events shall notify the board in writing within fifteen (15) calendar days following the physician's discovery of the event:

(i) The death of a patient during any level II office-based surgery or within seventy-two (72) hours thereafter;

(ii) The transport of a patient to a hospital emergency department except those related to a natural course of the patient's illness or underlying condition;

(iii) The unplanned admission of a patient to a hospital within seventy-two hours of discharge, only if the admission is related to the level II office-based surgery, except those related to a natural course of the patient's illness or underlying condition;

(iv) The discovery of a foreign object erroneously remaining in a patient from a level II office-based surgery at that office; or

(v) The performance of the wrong surgical procedure, surgery on the wrong site, or surgery on the wrong patient.

(r) Records of reportable events should be in writing and should include at a minimum the following:

(i) The physician's name and license number;

(ii) The date and time of the occurrence or discovery of the incident;

(iii) The office and address where the incident took place;

(iv) The name and address of the patient;

(v) The type of level II office-based surgery that was performed;

(vi) The type and dosage of sedation or anesthesia utilized during the procedure;

(vii) The circumstances surrounding the incident; and

(viii) The type or types of events required to be reported as provided in subsection (q).

(s) The filing of a report as required by subsection (q) does not, in and of itself, constitute an acknowledgement or admission of malpractice, error or omission. Upon receipt of the report, the board may, in its discretion, obtain patient and other records pursuant to authority granted to it in § 63-1-117. The reporting form and any supporting documentation reviewed or obtained by the board pursuant to this section and any amendments to the reports shall be confidential and not subject to discovery, subpoena or legal compulsion for release to any person or entity; nor shall they be admissible in any civil or administrative

proceeding, other than a disciplinary proceeding by the board; nor shall they be subject to any open records act request made pursuant to Title 10, Chapter 7, Part 5 or any other law. This section shall not affect any of the provisions of or limit the protections provided by §§ 63-6-219 and 63-9-114.

(t) Failure to comply with the requirements of subsections (o) through (s) constitutes grounds for disciplinary action by the board in its discretion pursuant to § 63-6-214.

SECTION 3. Tennessee Code Annotated, Section 63-9-117(a), is amended by adding the following language as a new subdivision:

() "Level II office-based surgery" means level II surgery as defined by the board of osteopathic medical examination in its rules and regulations that is performed outside of a hospital, ambulatory surgical treatment center, or other medical facility licensed by the Department of Health;

SECTION 4. Tennessee Code Annotated, Section 63-9-117, is amended by adding the following language as new subsections:

(o) Applicants for initial licensure or reinstatement of a previously issued license shall indicate to the board on the appropriate licensure application if they intend to perform level II office-based surgery procedures as defined by the rules of the Tennessee board of osteopathic examination and that are integral to a planned treatment regimen and not performed on an urgent or emergent basis.

(p) Licensed osteopathic physicians who perform level II office-based surgery at the time of licensure renewal shall indicate to the board on the licensure renewal application if the licensee currently performs level II office-based surgery procedures as defined in the rules of the Tennessee board of osteopathic examination and that are integral to a planned treatment regimen and not performed on an urgent or emergent basis.

(q) In order for health care providers and the board to work together to collect meaningful health care data, so as to minimize the frequency and severity of certain unexpected events and improve the delivery of health care services, each osteopathic physician who performs any level II office-based surgery that results in any of the following unanticipated events shall notify the board in writing within fifteen (15) calendar days following the physician's discovery of the event:

(i) The death of a patient during any level II office-based surgery or within seventy-two (72) hours thereafter;

(ii) The transport of a patient to a hospital emergency department except those related to a natural course of the patient's illness or underlying condition;

(iii) The unplanned admission of a patient to a hospital within seventy-two (72) hours of discharge, only if the admission is related to the level II office-based surgery except those related to a natural course of the patient's illness or underlying condition;

(iv) The discovery of a foreign object erroneously remaining in a patient from a level II office-based surgery at that office; or

(v) The performance of the wrong surgical procedure, surgery on the wrong site, or surgery on the wrong patient.

(r) Records of reportable events should be in writing and should include at a minimum the following:

(i) The physician's name and license number;

(ii) The date and time of the occurrence or discovery of the incident;

(iii) The office and address where the incident took place;

(iv) The name and address of the patient;

(v) The type of level II office-based surgery that was performed;

(vi) The type and dosage of sedation or anesthesia utilized during the procedure;

(vii) The circumstances surrounding the incident; and

(viii) The type or types of events required to be reported as provided in subsection (q).

(s) The filing of a report as required by subsection (q) does not, in and of itself, constitute an acknowledgement or admission of malpractice, error or omission. Upon receipt of the report, the board may, in its discretion, obtain patient and other records pursuant to authority granted to it in § 63-1-117. The reporting form and any supporting documentation reviewed or obtained by the board pursuant to this section and any amendments to the reports shall be confidential and not subject to discovery, subpoena or legal compulsion for release to any person or entity; nor shall they be admissible in any civil or administrative proceeding, other than a disciplinary proceeding by the board; nor shall they be subject to any open records act request made pursuant to Title 10, Chapter 7, Part 5 or any other law. This section shall not affect any of the provisions of or limit the protections provided by §§ 63-6-219 and 63-9-114.

(t) Failure to comply with the requirements of subsections (o) through (s) constitutes grounds for disciplinary action by the board in its discretion pursuant to § 63-9-111.

SECTION 5. This act shall take effect October 1, 2008, the public welfare requiring it.

PASSED: April 28, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 15th day of May 2008



PHIL BREDESEN, GOVERNOR